

REFERENCE TITLE: deferred presentment; lending; military personnel

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SB 1422

Introduced by
Senator Martin

AN ACT

AMENDING SECTION 6-1260, ARIZONA REVISED STATUTES; RELATING TO DEFERRED PRESENTMENT LENDING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 6-1260, Arizona Revised Statutes, is amended to
3 read:

4 6-1260. Deferred presentment; amount; fees; loans to members of
5 military service

6 A. The licensee may accept for deferred presentment or deposit a check
7 with a face amount of at least fifty dollars but not more than five hundred
8 dollars, excluding the fees permitted in subsection F of this section.

9 B. For each check the licensee accepts for deferred presentment or
10 deposit, the licensee and the customer shall sign a written agreement that
11 contains the name or trade name of the licensee, the transaction date, the
12 amount of the check, the amount to be paid by the maker, a statement of the
13 total amount of the fees charged, expressed both as a dollar amount and as an
14 effective annual percentage rate, a disclosure statement that complies with
15 state and federal truth in lending laws and a notice to the customer as
16 prescribed in subsection C of this section. The written agreement shall
17 expressly require the licensee to defer presentment or deposit of the check
18 until a specified date.

19 C. A licensee shall provide a notice in a prominent place on each
20 written agreement that specifies that no customer may have outstanding more
21 than one deferred presentment service agreement at one time and the face
22 amount, exclusive of any fees, cannot be more than five hundred dollars. A
23 licensee shall ask every customer who seeks deferred presentment services
24 whether that customer has any outstanding checks payable to other licensees.

25 D. A licensee may rely on the customer's representation of whether the
26 customer has any outstanding checks for deferred presentment held by other
27 licensees.

28 E. The maker of a check has the right to redeem the check from the
29 licensee before the agreed on date of presentment or deposit if the maker
30 pays the licensee the amount of the check.

31 F. A licensee shall not directly or indirectly charge any fee or other
32 consideration for accepting a check for deferred presentment or deposit that
33 is more than fifteen per cent of the face amount of the **ADVANCED** check
34 **DELIVERED TO THE MAKER BY THE LICENSEE** for any initial transaction or any
35 extension.

36 G. A licensee may impose the fee prescribed in subsection F of this
37 section only once for each written agreement. The fee is earned on execution
38 of the written agreement and is not subject to any reimbursement even if the
39 maker redeems the check pursuant to subsection E of this section.

40 H. The fee charged by the licensee is not interest for purposes of any
41 other law or rule of this state.

42 I. A person may extend the presentment or deposit of a check not more
43 than three consecutive times. For each extension the customer and the
44 licensee shall terminate the previous agreement and sign a separate
45 agreement. During an incomplete transaction the customer may not receive any

1 additional monies from the licensee. The licensee may charge a fee as
2 prescribed in subsection F of this section for each extension. If a customer
3 has completed a deferred presentment transaction with the licensee, the
4 customer may enter into a new agreement for deferred presentment services
5 with the licensee. A transaction is completed when the customer's check is
6 presented for payment, deposited or redeemed by the customer for cash.

7 J. If a check is returned to the licensee from a payer financial
8 institution due to insufficient funds, a closed account or a stop payment
9 order, the licensee may use all available civil remedies to collect on the
10 check, including the imposition of the dishonored check SERVICE fee
11 prescribed in section 44-6852. An individual who issues a personal check to
12 a licensee under a deferred presentment agreement is not subject to criminal
13 prosecution pursuant to title 13, chapter 18.

14 K. IF LENDING TO A MEMBER OF THE MILITARY SERVICE OF THE UNITED STATES
15 OR THE SPOUSE OF A MEMBER OF THE MILITARY SERVICE OF THE UNITED STATES, A
16 LICENSEE:

17 1. SHALL NOT GARNISH ANY MILITARY EARNINGS.
18 2. SHALL NOT CONDUCT ANY COLLECTION ACTIVITY AGAINST A BORROWER WHO IS
19 A MEMBER OF THE MILITARY SERVICE OF THE UNITED STATES OR THE SPOUSE OF THE
20 MEMBER DURING THE MEMBER'S DEPLOYMENT TO A COMBAT OR COMBAT SUPPORT POSTING
21 OR DURING ACTIVE DUTY SERVICE BY A MEMBER OF THE NATIONAL GUARD OR ANY
22 MILITARY RESERVE UNIT OF ANY BRANCH OF THE ARMED FORCES OF THE UNITED STATES.

23 3. SHALL NOT CONTACT THE COMMANDING OFFICER OF A BORROWER WHO IS A
24 MEMBER OF THE MILITARY SERVICE OF THE UNITED STATES OR ANYONE IN THE
25 BORROWER'S CHAIN OF COMMAND IN AN EFFORT TO COLLECT ON A LOAN MADE TO THE
26 MEMBER OR THE MEMBER'S SPOUSE.

27 4. IS BOUND BY THE TERMS OF ANY REPAYMENT AGREEMENT THAT THE LICENSEE
28 ENTERS WITH RESPECT TO THE BORROWER, INCLUDING ANY REPAYMENT AGREEMENT THE
29 LICENSEE NEGOTIATES THROUGH MILITARY COUNSELORS OR THIRD PARTY CREDIT
30 COUNSELORS.

31 5. SHALL DEVOTE SOME OF THE LICENSEE'S EXISTING FINANCIAL LITERACY
32 EFFORT TOWARD ADDRESSING THE EDUCATIONAL NEEDS OF MILITARY BORROWERS.

33 6. SHALL DEVELOP A BROCHURE WITH INFORMATION SPECIFICALLY RELEVANT TO
34 MILITARY BORROWERS, INCLUDING ALL OF THE FOLLOWING:

35 (a) THE REQUIREMENTS OF THIS SUBSECTION.
36 (b) MILITARY POLICIES RELATING TO CREDIT.
37 (c) WHERE MILITARY MEMBERS MAY FIND FINANCIAL ASSISTANCE THROUGH
38 ESTABLISHED MILITARY PROGRAMS, WEB SITES AND A MILITARY HOTLINE.
39 (d) WHERE MILITARY MEMBERS MAY FIND INFORMATION ABOUT LOCAL CREDIT
40 COUNSELING ALTERNATIVES.